

1 A. No.

2 Q. Do you know how the bidding error
3 occurred now?

4 A. No.

5 Q. Did you know if anybody knows?

6 A. I don't know.

7 Q. Did you consider it possible that the
8 FCC computer system was the source of the error?

9 MR. GORDIN: Objection to the form of
10 the question.

11 I think it's unclear. If you want to
12 elaborate on that.

13 MR. LYON: No. I'll stick with that
14 question.

15 Q. Did you consider it possible that the
16 FCC computer system caused the bid error?

17 A. Yes, I guess it was possible.

18 Q. Did you tell Mr. Easton -- strike that.

19 After Mr. Easton's call ended, for how
20 long did you stay in the San Mateo Group offices?

21 A. I don't remember, but I left shortly
22 thereafter because the round was over.

23 Q. Did you have the occasion to go up to
24 Mr. Easton and tell him that you didn't think the
25 FCC system was at fault?

1 A. I don't remember.

2 Q. Do you think you did that?

3 MR. GORDIN: Objection to the form of

4 the question.

5 MR. LYON: Q. Do you think you went up

6 to him and told him that it wasn't the FCC computer

7 system's fault?

8 MR. GORDIN: Same objection.

9 MR. ALTSHULER: It's been asked and

10 answered.

11 THE WITNESS: I don't remember telling

12 him that, but knowing what I know about computers,

13 I would have said that.

14 MR. LYON: Q. Did you think that the

15 San Mateo Group computer system caused the errors?

16 MR. ALTSHULER: Objection as vague.

17 THE WITNESS: No.

18 MR. LYON: Q. Did you think that

19 Ms. Hamilton caused the error?

20 A. I didn't know who caused the error.

21 Q. Okay. Did you have any conversation

22 with Ms. Hamilton before you left after the error

23 was discovered?

24 A. I don't think so.

25 Q. Did you hear Ms. Hamilton speak to

1 Mr. Easton prior to leaving -- prior to your
2 leaving?

3 A. I don't know. Things got kind of
4 hectic, and I don't remember. You know, after the
5 bid error was discovered, it just got really
6 frantic; and I just, well, the rounds are over, I
7 need to go, I just thought.

8 Q. Did you see anyone destroying documents
9 that day after the bidding error was discovered?

10 A. No.

11 Q. Did you see, and I think you've already
12 testified, that you have never seen anyone else
13 purging files; is that correct?

14 A. That's correct.

15 Q. So would it be fair to say that you
16 didn't see anyone purging files after the bidding
17 error was discovered?

18 A. Yes.

19 Q. At some point after the bidding error
20 was discovered, you did purge files on the network
21 server; is that correct?

22 A. Within that week, which was the normal
23 anyway.

24 Q. You didn't do so with the intent to
25 destroy any evidence of how the bidding error

1 occurred, did you?

2 A. No.

3 Q. You'd have no reason to do that, would
4 you?

5 A. Absolutely not.

6 Q. And you don't know of anyone else
7 having purged the NetWare server with that intent,
8 do you?

9 A. No.

10 Q. After January 23, 1996, did you ever
11 see anyone destroy documents in what you believed
12 was an intent to hide evidence in this case?

13 A. No.

14 Q. And so you didn't see Mr. Easton
15 destroy any documents in what you believed was an
16 intent to hide evidence in this case; is that
17 correct?

18 A. No. That's correct.

19 Q. Do you recall ever telling anyone that
20 you saw Mr. Easton purging files?

21 A. No.

22 Q. Do you recall ever telling anyone that
23 Mr. Easton was destroying documents in an attempt
24 to cover up the bid error?

25 A. No.

1 Q. Do you recall ever telling anyone that
2 Mr. Easton was destroying documents to cover up
3 anything?

4 A. No.

5 Q. Do you ever recall telling anyone that
6 you saw Mr. Easton destroying documents?

7 A. No.

8 Q. And do you ever recall telling anyone
9 that you saw Mr. Easton purging files?

10 A. No.

11 Q. Do you ever recall telling anyone that
12 you saw Mr. Easton deleting files?

13 A. No.

14 MR. LYON: Are we near the noon hour?

15 MR. ALTSHULER: We're after.

16 MR. LYON: Is this a good time for
17 lunch?

18 MS. POWER: Sure.

19 MR. GORDIN: Would you tell us
20 approximately how much longer you're going to go
21 after lunch?

22 MR. LYON: It depends on the witness's
23 answers.

24 MR. GORDIN: We can go off the record.

25 (Lunch recess taken at 12:11 p.m.)

2

3

EXAMINATION (continued)

4 BY MR. LYON:

5

Q. Let's go back on the record.

6

Mr. Gross, you have before you what has
7 been marked for identification as Exhibit?

8

A. Yes.

9

Q. Would you identify that document for
10 us, please.

11

A. This is a document I created for
12 Mr. Quentin Breen after being asked about the
13 security at the San Mateo Group office and how to
14 tighten it.

15

Q. There are eight numbered paragraphs on
16 the document.

17

Drawing your attention to the document
18 1, which in my copy says, "communication Serve,"
19 could that have been meant to be a communication
20 server?

21

A. Yes.

22

Q. Was there a communications server?

23

A. Yes, I guess, there was. There was a
24 communications server, and also I guess I'd like to
25 say while on break I realized there were two files

1 records, there was SMG-1 and SMG-2.

2 Q. I'm glad you clarified that. I was
3 intending to at some point.

4 Can you identify what the function of
5 the communications server was?

6 A. Yes.

7 Our communications server, the purpose
8 is to allow an individual to dial up a phone number
9 and gain access to the network, the local area
10 network.

11 Q. Okay. Oh, and with respect to the
12 local area network, could you state whether or not
13 the files on any one workstation were accessible to
14 the files on any other workstation?

15 I think there's a term for that called
16 peer to peer; is that correct?

17 Let me rephrase my question.

18 A. No. I understand the question.

19 The answer is prior to Round 11, no, it
20 was not peer to peer. After putting in an NT
21 server, yes, it was peer to peer.

22 Q. The NT server is what allowed the peer
23 to peer?

24 A. No. The software on each workstation
25 is what allowed peer to peer.

1 Q. With respect on the communications
2 server Item A under that states "Install passwords
3 not currently used" -- strike that.

4 Did you author Exhibit No. 2?

5 A. Yes, I did.

6 Q. And, in fact, toward the bottom of the
7 page is your signature; is that correct?

8 A. Yes, it is.

9 Q. Could you explain for us what was meant
10 by "Install Passwords" --

11 MR. GORDIN: Off the record.

12 The phone just rang.

13 (Brief discussion off the record.)

14 (Record read.)

15 MR. LYON: Q. "Not currently used"?

16 A. The communications server as it was
17 prior to these changes did not require an
18 individual to enter a password to gain access the
19 network.

20 Q. Would that situation allow someone to
21 call in and manipulate data on the file server?

22 A. Yes.

23 Q. Would that include deleting files?

24 A. Yes.

25 Q. Purging files?

1 A. Yes, if the person was a supervisor.

2 Q. Did you ever have the occasion to
3 employ the communications server?

4 A. No.

5 Q. Do you know if others did?

6 A. Directly? I don't know.

7 Q. Was there any record made of the --
8 would there have been a record made of entry into
9 the system via the communications server?

10 A. No. There was no tracking.

11 Q. Did you install passwords?

12 A. Yes.

13 Q. With respect to the system router,
14 there are two items, "a. Change password and modem
15 phone number," and "B. Change router address (IP
16 number.)"

17 Could you tell me what both of those
18 meant?

19 A. What that means is change the password
20 for the router, for accessing the system router,
21 and change the Internet protocol address.

22 Q. What does the system router do?

23 A. The system router is what allowed
24 access via the Internet.

25 Q. To the San Mateo Group network?

1 A. Yes.

2 Q. So, correct me if I'm wrong, but did
3 that indicate that someone could access the system
4 going through the Internet?

5 A. Yes, if they had the password and IP
6 address.

7 Q. There was a password prior to Round 11?

8 A. Yes, there was.

9 Q. And it was changed at sometime
10 thereafter?

11 A. Yes.

12 Q. Do you recall when?

13 A. Shortly after I wrote this document
14 which was 2/8/96.

15 Q. And the modem phone number was changed
16 too?

17 A. I believe the modem was just unplugged
18 since there was really no time to change the phone
19 numbers.

20 Q. The effect of unplugging the modem
21 phone number was that?

22 A. Was it no longer allowed an individual
23 to use a computer number to dial into the router.

24 Q. Therefore, effectively the system
25 router was isolated from outside access from anyone

1 outside the access of the SMG group; is that
2 correct?

3 A. Yes.

4 Q. At least that was certainly the intent?

5 A. Exactly, that was the intent.

6 Q. To avoid me having to read Paragraph 3,
7 could you just look at that and tell me what that
8 was designed to do, what that recommendation was
9 designed to do?

10 A. Proshare video system is a remote
11 telecommunications software and camera system which
12 allows an individual to telecommute, to work at
13 home or work anywhere else in the world and use
14 cameras to see one another and actually use the
15 software to share the data.

16 Q. If San Mateo Group or PCS 2000 accepted
17 your recommendation, what was your recommendation
18 designed to do?

19 A. That was designed to monitor when
20 someone was actually using the Proshare video
21 system, and what I put here is "remove the
22 listening mode," which stops an individual from
23 actually calling into the system and being actually
24 able to access it without anyone else knowing.

25 Q. In other words, preventing anyone from

1 being able to eavesdrop?

2 A. Exactly.

3 Q. How about paragraph No. 4? Could you
4 explain what you meant there?

5 A. Same idea. The idea of this whole
6 thing was to secure the network, change the
7 supervisor password because I was unsure who had
8 it, as I stated earlier, who the supervisors were,
9 and required everyone to change their passwords
10 immediately because passwords were pretty loose
11 around here.

12 MR. GORDIN: I'm sorry. I didn't hear
13 the last part of the answer.

14 THE WITNESS: Passwords were pretty
15 loose.

16 MR. LYON: Q. I neglected to ask you
17 if recommendation No. 1 was adopted?

18 A. Yes.

19 Q. No. 2?

20 A. Yes.

21 Q. No. 3

22 A. Yes.

23 Q. No. 4?

24 A. Yes.

25 Q. And the approximate time these

1 recommendations were adopted?

2 A. Within a day or two of submitting this
3 document.

4 Q. What about recommendation five? What
5 was that designed to do?

6 A. At the request of Mr. Easton, I had
7 installed PC anywhere on the fax server, which in
8 essence allowed everyone to use it from their
9 desktops, to not have to go to the fax server to
10 sent in the people.

11 There were no passwords on PC anywhere,
12 and so what I, in effect, did was put a password on
13 there, so that way we knew who was doing it.

14 Q. With respect to Item No. 4, was there
15 any restriction placed on the supervisors with
16 respect to the adoption of that recommendation --
17 let me rephrase that.

18 Were there any controls placed on who
19 could be supervisors on or about this time?

20 A. Yes, there were.

21 Q. And what controls were there?

22 A. I forget exactly how it went, but there
23 were only one or two supervisors.

24 Q. And who were they?

25 A. I have the supervisor's password, of
87

1 course, because I installed it; and I think
2 Mr. Lamoso also did the password, or
3 Mr. Breen.

4 Q. Anyone else?

5 A. I'm trying to remember if Mr. Pezzaglia
6 had it or not, but I don't remember. I think he
7 did.

8 Q. How about Mr. Gavette?

9 A. He would have to have it, yes.

10 Q. Ms. Hamilton -- strike that. She was
11 no longer there?

12 Actually, you should say that.

13 Ms. Hamilton, did she have it?

14 A. She was no longer there.

15 Q. And Item No. 6, could you explain what
16 was designed to occur with that recommendation?

17 A. Okay. Item No. 6, prior to the
18 adoption of -- prior to the option of these
19 changes, all the computers there were set up to
20 share a single copy of Microsoft windows, and they
21 would turn their systems on, access the file
22 server, and they would run Microsoft windows from
23 the file server.

24 With the problems they were having with
25 the file server, my recommendation was intended to

1 take that burden off the file server so the windows
2 wouldn't fill up so quickly and also help secure
3 the network.

4 Q. And that recommendation was adopted?

5 A. Yes.

6 Q. And No. 5 was adopted?

7 A. Yes, it was.

8 Q. How about No. 7? What was that
9 intended to accomplish?

10 A. Oh, it was unknown at that point who
11 all had the password to submit bids on behalf of
12 PCS 2000, and so my immediate suggestion was call
13 the FCC and have them change the password.

14 Q. And was that done?

15 A. Yes.

16 Q. And No. 8?

17 A. "All machine PCIP addresses need to be
18 changed."

19 That was done in case any individuals
20 who were not supposed to have access to the network
21 knew the IP address of a single computer.

22 And, once again, all of this was just a
23 really paranoid idea that really tightened the
24 network down, and it worked.

25 Q. Following the adoption of those

1 recommendations, did any other bid errors occur?

2 A. No.

3 Q. Did any bid withdrawals occur?

4 A. I don't know.

5 Q. Did there come a time following the bid
6 error day when any modifications were made to the
7 computer that Mr. Easton had been using in his
8 office in which, I guess, by that time was his
9 former office?

10 MR. GORDIN: Can you read back that
11 question, please.

12 MR. LYON: I'll rephrase it.

13 Q. Mr. Easton had a computer in his
14 office; is that correct?

15 A. That's correct.

16 Q. Did there come a time after the bid
17 error day when modifications were made to that
18 computer?

19 A. Not that I know of, no.

20 Q. Do you recall that computer being moved
21 at any point?

22 A. I don't remember it, no.

23 Q. Do you recall Mr. Lamoso requesting
24 that a new operating system be placed on that
25 computer?

1 A. I'm trying to remember did we load
2 Windows 95. I think we put Windows 95 in.

3 Q. Do you know if someone else in the PC
4 felt -- PCS 2000 or San Mateo Group offices, that
5 is, the San Mateo Group offices, do you know if
6 anyone moved Mr. Easton's computer into another
7 office and began using it?

8 A. Once again, I don't remember exactly.
9 I believe Mr. Lamoso started using it,
10 but I can't be sure.

11 Q. Do you remember after the PCS bidding
12 was finished being contacted by Mr. Easton with
13 respect to his computer, the computer that had been
14 in his office?

15 A. I remember he called me.
16 I don't remember. Quite honestly, I
17 don't remember why. I mean, I don't remember the
18 exact nature of the conversation.

19 Q. I'll attempt to refresh your
20 recollection.

21 Would it refresh your recollection if I
22 indicated that Mr. Easton stated that his hard
23 drive had been reformatted?

24 A. No, it wouldn't.

25 Q. Or wiped?

1 A. No, it wouldn't.

2 Q. Mr. Gross, do you have any knowledge
3 that Mr. Easton intended to overbid on the bid
4 error day?

5 A. No.

6 Q. At some point in time did Ms. Hamilton
7 state to you that she believed Mr. Easton had done
8 anything improper?

9 A. Yes, she did.

10 Q. When did she state that?

11 A. Later that evening on the bidder -- on
12 the bidder date.

13 Q. What did she say, to the best of your
14 recollection?

15 A. I believe she told me that she thought
16 Terry had screwed up the bid and attempted to blame
17 the FCC.

18 Q. Anything else?

19 A. That was basically the gist of it, and
20 she couldn't go back there.

21 Q. Do you recall how long your
22 conversation -- was this conversation a
23 person-to-person conversation?

24 A. Yes.

25 Q. And that occurred at her house?

1 A. Yes.

2 Q. What was the occasion for you to be at
3 her house?

4 A. We had previously made plans for me to
5 install a hard drive in her computer, so she said,
6 I'll make you dinner if you'll install a hard
7 drive.

8 I said, Sure. No problem.

9 Q. Do you recall how long you were there?

10 A. Maybe an hour.

11 Q. Okay. Approximately how long was your
12 conversation relating to her allegation concerning
13 Mr. Easton?

14 A. Maybe 10 or 15 minutes.

15 Q. Do you remember anything else other
16 than what you've currently testified as to what she
17 said to you, or what you said to her in that ten
18 minutes?

19 MR. GORDIN: Object to the
20 characterization of his prior testimony.

21 MR. ALTSHULER: Join the objection.

22 MR. LYON: Let me change that.

23 Q. Did you say anything in response to her
24 allegation concerning Mr. Easton?

25 A. I asked her what she was going to do.

1 Q. What did she say?
2 A. She said she was going to turn him in.
3 Q. What else did you say?
4 A. Be careful.
5 Q. Did she say anything else? Did she say
6 anything else in response?
7 A. Basically, no. She was pretty
8 hysterical.
9 Q. So she was upset?
10 A. Yes.
11 Q. Did she indicate to you that she was
12 concerned that she would be blamed for the error?
13 A. Yes.
14 Q. What did you say in response to that,
15 if anything?
16 A. Nothing. I don't think I said
17 anything.
18 Q. Had you heard Mr. Easton say that he
19 thought Ms. Hamilton was to blame?
20 A. No.
21 Q. Did you think -- did you form any
22 conclusion with respect to the reasonableness of
23 Ms. Hamilton's statement that she believed
24 Mr. Easton would try to blame her?
25 A. I don't understand your question.

1 Q. Did you think he was going to try to
2 blame her?

3 A. I didn't know.

4 Q. Were you concerned that you would be
5 blamed?

6 A. Never.

7 Q. Did Ms. Hamilton indicate to you that
8 she had any documents relevant to the issue of
9 whether Mr. Easton had done anything wrong?

10 A. Yes.

11 Q. Did she show you any documents?

12 A. She showed me what she said was the
13 original bid.

14 Q. Did you review it?

15 A. Yes, but I couldn't tell you what it
16 looked like today if I had to.

17 Q. Did anything else occur during this
18 ten-minute conversation relating to Mr. Easton that
19 you haven't already related to us?

20 MR. GORDIN: Object to the
21 characterization of prior testimony.

22 MR. LYON: Q. Do you understand my
23 question?

24 A. Yes, but I'm trying to figure out what
25 you mean.

1 Q. Was there anything else that she said
2 or you said that you haven't already told us about
3 Mr. Easton's alleged misconduct?

4 And, again, it's the evening of the bid
5 error date.

6 A. She was basically telling me she said,
7 well, as an attorney she felt like she had to --
8 she had no option but to turn him in, and she was
9 very afraid to do it.

10 Q. Did you inquire of her as to where she
11 got the document or documents that she showed you?

12 A. Yes, I did. I asked her, "Where did
13 you get this?"

14 Q. What did she say?

15 A. "Out of the garbage can."

16 Q. Did she indicate to you that Mr. Easton
17 had been looking for that document?

18 A. Yes.

19 Q. And did she indicate to you whether she
20 had given Mr. Easton a copy?

21 A. No, she didn't.

22 Q. Did you wonder -- strike that.

23 Did you ask her if she was going to
24 give Mr. Easton a copy?

25 A. No.

1 Q. Did you suggest that she should?

2 A. No.

3 Q. Did you suggest that she should give
4 anyone a copy of the document?

5 A. No.

6 Q. Did she indicate she was going to give
7 anyone a copy of the document?

8 A. She told me she was going to send a
9 copy to the FCC.

10 Q. Did she say she was going to send a
11 copy to Clinton/Brady?

12 A. I don't know.

13 Q. Other than the FCC did she indicate she
14 was going to send a copy of the document to anyone?

15 A. I don't know.

16 Q. Do you know whether she sent -- strike
17 that.

18 Did you ever hear any telephone
19 conversations that Ms. Hamilton had with the FCC?

20 A. No.

21 Q. Did Ms. Hamilton call anyone the night
22 of the 23rd while you were at her house?

23 A. No.

24 Q. Did anyone call her, to your knowledge,
25 that night?

1 A. Not while I was there.
2 Q. Did you see Ms. Hamilton on the 24th?
3 A. I don't believe so, no.
4 Q. Did you see her on the 25th?
5 A. I don't think I saw her anymore that
6 week.
7 Q. Did you talk to her anymore that week?
8 A. I think I did.
9 Q. Can you tell us when?
10 A. I don't remember. I really don't. It
11 was a brief conversation. I wanted to stay as far
12 away from this as possible.
13 Q. Do you recall the substance of the
14 brief conversation?
15 A. No.
16 Q. Did it involve Mr. Easton?
17 A. I doubt it.
18 Q. Did you ever speak with William Conard
19 general counsel, now chairman of the FCC?
20 A. No.
21 Q. Do you know if Ms. Hamilton did?
22 A. I don't know if she did or not.
23 Q. Did she tell you she did?
24 A. I don't remember.
25 Q. Did she tell you if she called the FCC?

1 A. Yes, she did.
2 Q. What did she tell you about that call?
3 A. That they wanted a copy of the bid.
4 Q. And did you have any response to that?
5 A. I asked her did she send it.
6 Q. And what did she tell you?
7 A. She said yes.
8 Q. Did you participate in sending any
9 document to Mr. Conard?
10 MR. ALTSHULER: Objection. Vague.
11 MR. LYON: Q. Do you understand what
12 I'm asking?
13 A. No.
14 Q. Okay. Let me try again.
15 Did you fax a copy of the bid to
16 Mr. Conard?
17 A. No.
18 Q. Did you fax a copy of the bid to
19 anyone?
20 A. No.
21 Q. Did you allow Ms. Hamilton to fax a
22 copy of the bid from your office?
23 A. No.
24 Q. Did you allow -- did you mail any
25 copies of the bid to anyone for Ms. Hamilton?